

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 007336
ORIGIN EB-07

INFO OCT-01 NEA-10 ISO-00 CIAE-00 COME-00 DODE-00 DOTE-00
FMC-01 INR-07 NSAE-00 SAL-01 CG-00 DLOS-06 OES-06
STR-04 L-03 XMB-02 TRSE-00 OMB-01 AID-05 IGA-02 H-01
/057 R

DRAFTED BY EB/TCA/MA:RSFARON:EW
APPROVED BY EB/TCA/MA:RKBANK
MARAD:FRAITER/JHOEN (INFO)
FMC:TCHRISTENSEN
NEA/AFN:DJAMESON
EB/TCA/MA:CTAYLOR,JR.
-----130348Z 024848 /73
R 122346Z JAN 77
FM SECSTATE WASHDC
TO AMEMBASSY ALGIERS

LIMITED OFFICIAL USE STATE 007336

E.O. 11652:N/A

TAGS:EFIN, EWWT, AG, US, ETRN

SUBJECT: GOA REQUEST THAT 50 PER CENT OF US/ALGERIAN
TRADE BE RESERVED FOR ALGERIAN FLAG VESSELS

REF: ALGIERS 0028

SUMMARY: REPORTS OF MEETING OF ALGERIAN SHIPPING OFFICIALS
WITH FMC AND MARAD INDICATE GENERAL DISCUSSIONS TOOK PLACE
CONCERNING PROCEDURES FOR APPROVAL OF SECTION 15 AGREE-
MENTS AND WAIVERS OF EXIMBANK CARGO RESTRICTIONS. THERE
WAS NO DISCUSSION OF ALGERIAN INTENT TO IMPOSE UNILATERAL
ALGERIAN CARGO PREFERENCE MEASURES. SUMMARY OF U.S.
POLICY RE P.R.17, CARGO PREFERENCE AND POOLING AGREEMENTS
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 007336

TO BE PASSED TO GOA OFFICIALS FOLLOW. END SUMMARY.

1. ON DECEMBER 13 ALGERIAN OFFICIALS, AISSA HENNI,
DEPUTY DIRECTOR OF THE MERCHANT MARINE, AND AMAR MOKHTAR,
DIRECTOR OF MARITIME TRANSPORT FOR ALGERIAN NATIONAL
SHIPPING LINE (CNAN) MET WITH OFFICIALS FROM FEDERAL
MARITIME COMMISSION (FMC) AND MARITIME ADMINISTRATION

(MARAD). THEY WERE ACCOMPANIED BY OFFICIALS OF LYKES BROS. STEAMSHIP COMPANY, ALGERIAN SHIPPING AGENTS IN U.S. GULF. MEETING AT FMC WAS TO DISCUSS POSSIBILITY AND PROCEDURES FOR FMC APPROVAL UNDER SECTION 15 OF SHIPPING ACT OF 1916 TO ALLOW THE ALGERIANS A GREATER SHARE OF THE BILATERAL CARGOES. FMC OFFICIALS OUTLINED STEPS NECESSARY FOR FMC APPROVAL OF ANY AGREEMENT AND STATED THAT THERE WAS NO GUARANTEE OF APPROVAL SHOULD ONE BE SUBMITTED. FMC RECALLS NO DISCUSSION OF ALGERIAN INTENT TO UNILATERALLY IMPOSE MEASURES GIVING GREATER CARGO SHARE TO CNAN.

2. MEETING WITH MARAD OFFICIALS WAS SIMILARLY EXPLORATORY AND CORDIAL. ALGERIAN OFFICIALS DISCUSSED POLICY REGARDING P.R.17 WAIVERS TO ALLOW ALGERIAN FLAG VESSELS TO CARRY UP TO 50 PER CENT OF EXIMBANK-FINANCED CARGO. ALSO DISCUSSED BRIEFLY WERE POSSIBLE ALGERIAN EXPANSION IN ATLANTIC TRADE AND POSITION OF USG TOWARD 50-50 BILATERAL AGREEMENT REGARDING ALL CARGOES MOVING BETWEEN THE TWO COUNTRIES.

3. PARA 1 OF REFTTEL DESCRIBING NOTE NO. 3611 INDICATES GOA STILL HAS MISCONCEPTION OF U.S. SHIPPING POLICY REGARDING GOVERNMENT CARGO PREFERENCE. EMBASSY SHOULD MAKE CLEAR TO MFA THAT MARAD AS SOLE ADMINISTRATOR OF P.R.17 RULES AND WAIVERS GRANTS AND WILL CONTINUE TO GRANT GENERAL WAIVERS OF PROVISIONS OF P.R.17 TO PERMIT ALGERIAN-FLAG VESSELS TO CARRY UP TO 50 PER CENT OF ALL CARGOES GENERATED BY EXIMBANK LOANS SO LONG AS ALGERIA LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 007336

DOES NOT DISCRIMINATE AGAINST U.S. FLAG SHIPPING. FYI. SHOULD GOA TAKE STEPS TO RESERVE COMMERCIAL CARGO FOR GOA-FLAG SHIPS, THEY RISK DENIAL OF P.R.17 WAIVER. END FYI. THE CARGO PREFERENCE ACT, P.L.664, RESERVES 50 PER CENT OF OTHER USG-OWNED OR FINANCED CARGOES (AID, P.L.480) TO US-FLAG CARRIERS AND LEAVES 50 PER CENT AVAILABLE TO ALGERIAN-FLAG OR OTHER CARRIERS. COMMERCIAL CARGOES ARE NOT REPEAT NOT RESERVED AND ARE AVAILABLE ON A COMPETITIVE BASIS TO ALGERIAN-FLAG VESSELS. MARAD MADE THIS CLEAR TO HENNI AND MOKHTAR ON THEIR VISIT. THERE IS NO U.S. LAW THAT RESTRICTS CNAN'S SHARE OF U.S. COMMERCIAL CARGO.

4. MARAD FURTHER NOTES THAT ONE GENERAL WAIVER FOR DRAVO CORPORATION PROJECT IS CURRENTLY BEING PROCESSED AND HAS NOT YET BEEN GRANTED. WAIVER OF P.R.17 HAS BEEN GRANTED DURING 1976 FOR EXIMBANK CREDIT NO. 5859-GTEI-SONELEC TO ALLOW ALGERIAN-FLAG VESSELS TO CARRY UP TO 50 PER CENT OF CARGO FINANCED. ALSO MARAD

HAS GRANTED BLANKET STATUTORY WAIVER DUE TO NON-AVAILABILITY OF US-FLAG VESSELS WHICH HAS ALLOWED ALGERIAN-FLAG VESSELS TO CARRY 100 PER CENT OF THE CARGO FINANCED UNDER EXIMBANK CREDIT NO. 5847--C.S. GREEN, FREIGHT FORWARDERS.

5. REGARDING PARA 3, REFTTEL, EMBASSY SHOULD BE AWARE EXIMBANK HAS NO ROLE IN ADMINISTERING P.R. 17 RULES OR WAIVERS. P.R.17 STATES USG-FINANCED CARGO SHALL BE CARRIED EXCLUSIVELY IN U.S. VESSELS UNLESS U.S. VESSELS ARE NOT AVAILABLE IN SUFFICIENT NUMBERS, SUFFICIENT TONNAGE CAPACITY, NECESSARY SAILING SCHEDULE OR AT REASONABLE RATES. ACCORDING TO INTERPRETATION OF P.R.17 BY ATTORNEY GENERAL, OPIN. OF JUNE 5, 1934, WAIVER OF UP TO 50 PER CENT OF THE 100 PER CENT U.S.-FLAG REQUIREMENT UNDER P.R.17 IS ALLOWED SINCE THE "REQUIREMENT" IS A "RULE OF GUIDANCE" TO BE APPLIED IF FEASIBLE. FOLLOWING ATTORNEY GENERAL OPINION, THE 100 PER CENT US-LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 STATE 007336

FLAG REQUIREMENT MAY BE WAIVED BY MARAD IN TWO TYPES OF SITUATIONS: (1) STATUTORY WAIVER - WHEN MARAD FINDS AND CERTIFIES US-FLAG NON-AVAILABILITY; (2) GENERAL WAIVERS - AUTHORIZING SHARING BY RECIPIENT NATION VESSELS OF UP TO 50 PER CENT OF OCEAN FREIGHT OR VALUATION OF CARGO FINANCED UNDER THE CREDIT. EMBASSY SHOULD MAKE CLEAR TO GOA AUTHORITIES THAT NO MORE THAN 50 PER CENT CARRIAGE OF SUCH CARGO MAY BE WAIVED.

6. ALGERIA ALSO RECEIVES SMALL AMOUNTS OF P.L.480 CARGO, WHICH FALLS UNDER CARGO PREFERENCE ACT, P.L.664 OF 1954. UNDER P.L.664, AT LEAST 50 PER CENT OF GROSS TONNAGE OF USG-OWNED OR FINANCED EQUIPMENT, MATERIALS OR COMMODITIES SHALL BE TRANSPORTED ON U.S.-FLAG COMMERCIAL VESSELS AVAILABLE AT FAIR AND REASONABLE RATES. IN SUCH CASE, FOREIGN RECIPIENTS MAY SHIP UP TO 50 PER CENT OF CARGO ON FOREIGN-FLAG VESSELS OF ANY NATION WITHOUT OBTAINING PERMISSION BY WAIVER AS UNDER P.R.17.

7. EMBASSY CAN USE FOLLOWING INFORMATION TO BRIEF GOA OFFICIALS REGARDING CURRENT POLICY ON POOLING AGREEMENTS: (A) UNDER SOME CIRCUMSTANCES, U.S. LAW PERMITS POOLING ARRANGEMENTS AMONG SHIPPING LINES, PROVIDED THE POOL IS REVIEWED AND APPROVED BY THE FEDERAL MARITIME COMMISSION;

(B) IT IS THE DEPARTMENT'S (AND FMC'S) GENERAL VIEW, HOWEVER, THAT CARGO-SHARING (POOLING) AGREEMENTS SHOULD BE AVOIDED. THIS CONCLUSION IS BASED ON THE PREMISE THAT COMPETITION AMONG SHIPPING LINES BENEFITS TRADING INTERESTS, AND THAT CARGO-SHARING SCHEMES ARE, IN THE LONG RUN, DETRIMENTAL TO THOSE PROTECTED. IN ADDITION,

THE DEPARTMENT SEES GREAT VALUE IN COMMERCIAL NEGOTIATIONS AS THE BASIS FOR ARRANGEMENTS BETWEEN SHIPPERS AND CARRIERS.

(C) IN SOME CIRCUMSTANCES, HOWEVER, THE POOLS MAY
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 05 STATE 007336

AFFORD BENEFITS WHICH RENDER THEM IN THE PUBLIC INTEREST, NOTWITHSTANDING THEIR ANTI-COMPETITIVE EFFECTS. U.S. LEGISLATION CONTEMPLATES THIS POSSIBILITY, AND ESTABLISHED THE FEDERAL MARITIME COMMISSION AS A MEANS TO ASSURE THAT POOLING ARRANGEMENTS TRULY SERVE THE BROADER PUBLIC INTEREST. SHOULD CNAN AND OTHER LINES IN THE U.S.-ALGERIA TRADE CONCLUDE A POOLING AGREEMENT, THEY WOULD HAVE TO DEMONSTRATE TO THE FMC THAT THE AGREEMENT WAS IN THE PUBLIC INTEREST.

(D) THE QUESTION WHETHER PARTICULAR CARGO POOLING ARRANGEMENTS LEAD TO BENEFITS WHICH MAKE THEM IN THE PUBLIC INTEREST, EVEN THOUGH THEY MAY HAVE ANTI-COMPETITIVE EFFECTS, MUST BE DETERMINED ON A CASE-BY-CASE BASIS BY THE FMC UNDER SECTION 15 OF THE SHIPPING ACT OF 1916. EACH AGREEMENT MUST BE CONSIDERED IN LIGHT OF ALL OF THE CONSIDERATIONS WHICH THE LAW REQUIRES THE FMC TO TAKE INTO ACCOUNT, INCLUDING THE EFFECTS OF THE AGREEMENT ON COMPETITION AND ON THE PUBLIC INTEREST GENERALLY. WE RECOGNIZE THAT SUCH JUDGMENTS INVOLVE A VARIETY OF FACTORS, HIGH IN IMPORTANCE BEING THAT OF FOREIGN RELATIONS.

8. EMBASSY ALSO SHOULD MAKE CLEAR TO MFA OFFICIALS AND TO HENNI AND MOKHTAR THAT IN FUTURE, DEPARTMENT OF STATE, OFFICE OF MARITIME AFFAIRS SHOULD BE INITIAL CONTACT POINT FOR DISCUSSIONS OF SUBJECTS REGARDING MARITIME RELATIONS BETWEEN THE US AND ALGERIAN GOVERNMENTS.
KISSINGER

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MARITIME FLAGS, CARGO SHIPS
Control Number: n/a
Copy: SINGLE
Sent Date: 12-Jan-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE007336
Document Source: CORE
Document Unique ID: 00
Drafter: RSFARON:EW
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770012-1053
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770157/aaaabyca.tel
Line Count: 209
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: a74870da-c288-dd11-92da-001cc4696bcc
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 ALGIERS 28
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 12-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3611597
Secure: OPEN
Status: NATIVE
Subject: GOA REQUEST THAT 50 PER CENT OF US/ALGERIAN TRADE BE RESERVED FOR ALGERIAN FLAG VESSELS
TAGS: EFIN, EWWT, ETRN, AG, US
To: ALGIERS
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/a74870da-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009